

R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

TELEPHONE INTERVIEW SUMMARY

Applicant's representative, Christopher Maiorana, was contacted via telephone by Examiner Torres on March 24, 2004 to discuss a restriction for claims 1-15 between two groups. Applicant's representative provisionally elected with traverse Group 1, claims 1-8 and 14. No exhibits were shown. No other issues were discussed. No other agreements were reached.

RESTRICTION/ELECTION

Applicant's representative elects with traverse claims 1-8 and 14, Group I. Applicant's representative respectfully requests that the Examiner reconsider and withdraw the restriction requirement.

Group I, claims 1-8 and 14 and Group II, claims 9-13 and 15, are not separate groups. An application may be properly required to be restricted on one or more patentably distinct inventions only if (a) the inventions are either independent or distinct as claimed and (b) there is a **serious** burden on the Examiner. If the search and examination of an entire application can be made without serious burden, the Examiner **must** examine it on

the merits, even though it includes claims to independent and distinct inventions (MPEP §803). In the instant application, the language of dependent claim 7 in Group I is similar to that of independent claim 9 in Group II. Ongoing prosecution of claim 7 is evidence that no serious burden exists to prosecute claim 9. The Examiner does not appear to have met the burden of showing a *prima facie* case why there would be a serious burden to search and examine the entire application (MPEP §803). As such, the restriction should be withdrawn.

SUPPORT FOR THE CLAIM AMENDMENTS

Support for the claim amendments and new claims may be found in the specification, for example, on page 10 line 21 thru page 11 line 5, page 16 line 14 thru page 20 line 21 and FIGS. 2, 6 and 7 as originally filed. Thus, no new matter has been added.

OBJECTION TO THE DRAWINGS

The objection to the drawings because of handwriting is respectfully traversed and should be withdrawn. The copy of the figures available to Applicant's representative appear to be legible. Unfortunately, the copy of the figures available to the Examiner is not available via the private PAIR system. Therefore, Applicant's representative has no means to determine which text of which figures is considered not clearly legible. As such, the

Examiner is respectfully requested to either (i) specifically identify which text in which figures is unclear or (ii) withdraw the objection.

OBJECTION TO THE CLAIMS

The objection to the preamble of claim 14 for informalities is respectfully traversed and should be withdrawn. "The determination of whether a preamble limits a claim is made on a case-by-case basis in light of the facts in each case..." (MPEP §2111.02). Since the preamble "An apparatus" does not appear to limit the claimed invention, the text of claim 14 following "comprising:" already particularly points out and distinctly claims the invention. As such, claim 14 is fully compliant with 37 CFR 1.75 and the rejection should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §112

The rejection of claims 1-8 and 14 under 35 U.S.C. §112, second paragraph, has been obviated by appropriate amendment and should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claims 1-6, 8 and 14 under 35 U.S.C. §103(a) as being unpatentable over Agarwal et al '669 (hereafter

Agarwal) in view of Doshi et al., EP 0942 569 A2 (hereafter Doshi) has been obviated by appropriate amendment and should be withdrawn.

The rejection of claim 7 under 35 U.S.C. §103(a) as being unpatentable over Agarwal in view of Doshi and Zhu '847 is respectfully traversed and should be withdrawn.

Agarwal concerns a method an apparatus for adaptive control of forward error correction codes (Title). Doshi concerns a Simple Data Link (SDL) protocol (Title). Zhu concerns a device and method of signal loss recovery for realtime and/or interactive communications (Title).

In contrast, claim 1 provides (in part) a step for receiving a frame comprising a length field storing a length value for a combined length consisting of a payload field and a payload error detection field. However, neither a SIZE0 field nor a CODING field of Agarwal alone appear to cover both a data payload 240 field and a forward error correction code 250 field of Agarwal. Agarwal appears to contemplate each field having an individual size value. Therefore, Agarwal and Doshi, alone or in combination, do not appear to teach or suggest a step for receiving a frame comprising a length field storing a length value for a combined length consisting of a payload field and a payload error detection field as presently claimed.

Claim 1 further provides a step for retrieving a payload data and a payload error detection data from a frame based on a

length value and in response to passing an error detection on the length value. Despite the assertion on page 7 of the Office Action, the text of Agarwal in column 7, lines 51-57 appears to be silent regarding both (i) retrieving payload error detection data based on a length value and (ii) retrieving in response to passing an error detection on the length value (with page 7 of the Office Action admitting that the error detection is not to be taught by Agarwal). The cited text of Agarwal reads:

The inventive adaptive coding scheme is carried out by algorithms which measure the quality of the communication link in real-time, select the optimal forward error correction code length based on the measured quality and change the forward error correction code length on both sides of the communication link.

Nowhere in the above text, or in any other section, does Agarwal appear to discuss a step for retrieving a payload data and a payload error detection data from a frame based on (i) a length value and (ii) in response to passing an error detection on the length value as presently claimed.

No evidence of motivation to modify or combine the references has been provided in the Office Action. The alleged motivation on page 8 of the Office Action "to provide protection for important control information contained in the header" was not credited to Agarwal, Doshi or knowledge generally available to one of ordinary skill in the art (MPEP §2142). Therefore, the alleged motivation appears to be merely a conclusory statement. Furthermore, the fact that references can be combined or modified

is not sufficient to establish *prima facie* obviousness (MPEP §2143.01). Therefore, *prima facie* obviousness has not been established for lack of clear and particular evidence of motivation. The Examiner is respectfully requested to either (i) identify the source of the alleged motivation and provide evidence if from generally available knowledge or (ii) withdraw the alleged motivation. Claim 14 provides language similar to claim 1. As such, the claimed invention is fully patentable over the cited references and the rejection should be withdrawn.

Claim 2 provides (in part) a step for marking a start of a payload field in response to an intermediate error detection value matching a received value. In contrast, Doshi appears to contemplate (FIG. 3) a length indicator defining a length of a protocol field, an information field and a FCS field. Doshi appears to be silent regarding the length indicator field marking a start of the information field carrying the actual data. Therefore, Agarwal and Doshi, alone or in combination, do not appear to teach or suggest a step for marking a start of a payload field in response to an intermediate error detection value matching a received value as presently claimed. As such, claim 2 is fully patentable over the cited references and the rejection should be withdrawn.

Claim 5 provides a step for separating a payload data from a payload error detection data based upon both a length value

and a predetermined value. In contrast, Agarwal appears to be silent regarding how payload data is separated from a payload RS CRC error check. Therefore, Agarwal does not appear to teach or suggest that the separation is based on (i) a length value and (ii) a predetermined value. Furthermore, Doshi does not appear to fill the silence of Agarwal for separating based on a length value and a predetermined value. Therefore, Agarwal and Doshi, alone or in combination, do not appear to teach or suggest a step for separating a payload data from a payload error detection data base upon both a length value and a predetermined value as presently claimed.

Claim 6 provides a step for jumping a number of bytes equal to a length value from a start of payload field to reach a next frame. In contrast, Doshi appears to contemplate jumping from a start of a protocol field (See Doshi, column 3, lines 48-51 and FIG. 3). Therefore, Agarwal and Doshi, alone or in combination, do not appear to teach or suggest a step for jumping a number of bytes equal to a length value from a start of payload field to reach a next frame as presently claimed. As such, claim 6 is fully patentable over the cited references and the rejection should be withdrawn.

Claim 7 provides steps for (A) determining a second length value based upon (i) a payload length of payload data and (ii) a second payload error detection length of a second payload

error detection value, (B) calculating a second length error detection value for the second length value and (C) inserting (i) the second length value, (ii) the second length error detection value, (iii) the payload data, and (iv) the second payload error detection value into a second frame, wherein the payload data and the second payload error detection value occupy separate fields of the second frame. In contrast, each of Agarwal, Doshi and Zhu appear to be silent regarding generation of a second frame incorporating the data from a first frame. Therefore, Agarwal, Doshi and Zhu, alone or in combination, do not appear to teach or suggest steps for (A) determining a second length value based upon (i) a payload length of payload data and (ii) a second payload error detection length of a second payload error detection value, (B) calculating a second length error detection value for the second length value and (C) inserting (i) the second length value, (ii) the second length error detection value, (iii) the payload data, and (iv) the second payload error detection value into a second frame, wherein the payload data and the second payload error detection value occupy separate fields of the second frame as presently claimed.

Furthermore, the assertion on pages 12-13 of the Office Action that it would have been obvious to repackage the same frame as a previously sent frame appears to be a conclusory statement. No evidence has been provided that Zhu, Agarwal and/or Doshi teach

repackaging a frame. In particular, the Office Action only asserts on page 12 that Zhu teaches retransmitting (not repackaging) a frame for the purposes of recovering lost or damaged data. As such, claim 7 is fully patentable over the cited references and the rejection should be withdrawn.

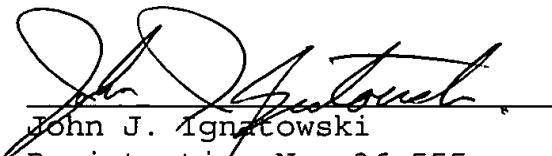
Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge our office Account No. 50-0541.

Respectfully submitted,

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